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Right of peoples to self-determination

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Note by the Secretariat

The Secretary-General has the honour to transmit to the General Assembly, in accordance with Assembly resolution 72/258 and Human Rights Council resolution 33/4, the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination.

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Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Summary

The present report provides an overview of the Working Group's findings in connection with Sustainable Development Goal 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels). Specific targets enumerated under Goal 16 include the promotion of the rule of law at the national and international levels and the assurance of equal access to justice for all. In addition, Goal 16 aims to significantly reduce illicit financial and arms flows, combat all forms of organized crime and ensure responsive, inclusive, participatory and representative decision-making at all levels. It also aims to strengthen relevant national institutions, including through international cooperation, in order to build capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

The Working Group's findings provide important insights into the challenges associated with mercenaries, foreign fighters and private military and security companies (PMSCs), which remain serious obstacles to the achievement of Goal 16 and its various targets.

The present report focuses on specific selected targets under Goal 16. Many of the Working Group's findings are based on country visits conducted since the establishment of its mandate. The Working Group hopes that the report will provide a unique insight into the debilitating impact of non-State actors such as mercenaries, foreign fighters and PMSCs on the overall sustainable development agenda. The report is also intended to raise awareness of the need to effectively address these activities and it provides recommendations to assist in advancing progress in the achievement of Goal 16.

I. Introduction

1. The present report is submitted to the General Assembly by the Working Group on the use of mercenaries as a means of violating human rights and the exercise of the right of peoples to self-determination, in accordance with Assembly resolution 72/258 and Human Rights Council resolution 33/4.

2. In pursuance of this mandate, the Working Group monitors mercenaries and mercenary-related activities in all their forms and manifestations, as well as private military and security companies (PMSCs) in different parts of the world. In addition, the Working Group studies their activities and the impact they may have on human rights, in particular the right to self-determination.

3. The vast and complex challenges that arise with regard to accountability in the case of human rights violations committed by mercenaries, foreign fighters and PMSCs have prompted the Working Group to undertake the present analysis, which covers a number of critical issues, including the need for stronger regulations and robust accountability mechanisms to govern the activities of these actors. It is thus essential that States and the various stakeholders engaged in the achievement of the Sustainable Development Goals pay particular attention to the activities of these actors and provide effective measures to address them.

4. The present report highlights trends and cross-cutting issues between Sustainable Development Goal 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) and some of the Working Group's findings, which show that mercenaries, foreign fighters and PMSCs present serious obstacles to the realization of this goal.

5. The Working Group provides recommendations for strengthening the implementation of Goal 16. It also hopes that present report will contribute to the various activities relating to the 2030 Agenda, including the review of Goal 16 at the forthcoming High-level Political Forum on Sustainable Development on the theme "Empowering people and ensuring inclusiveness and equality", to be held in 2019.

II. The legal and normative framework: mercenarism, mercenary-related activities and private military and security companies

6. The legal and normative framework related to mercenarism, mercenary-related activities and PMSCs is important for understanding Goal 16, which focuses on access to justice and building effective, accountable and inclusive institutions at all levels in society.

7. Mercenaries, foreign fighters and PMSCs personnel have been documented by the Working Group as perpetrators of a range of human rights and humanitarian law violations. The actions of these actors may give rise to the following human rights and international humanitarian law violations: executions, sexual slavery, rape and other forms of sexual and gender-based violence, torture, mutilation, forcible displacement, enforced disappearance, the wanton destruction of cultural property and the enlistment and forced recruitment of children.[1] Therefore, they can raise serious concerns in relation to Goal 16. International tribunals and national courts have found non-State actors criminally and civically accountable for war crimes.

[1] See A/70/330, para. 91.

8. Mercenaries are subject to two international legal measures. Article 47 of Additional Protocol I to the Geneva Conventions denies combatant and prisoner-of-war status to mercenaries but does not make mercenarism an offence. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, on the other hand, makes it an offence to recruit, use, train or finance mercenaries. Additional Protocol I has 174 State parties[2] and its provisions on mercenaries are considered to constitute binding customary international humanitarian law in international armed conflict.[3] For the purpose of denying mercenaries the rights of combatant or prisoner-of-war status in an international armed conflict, article 47 of the 1977 Additional Protocol I defines mercenaries in a series of cumulative elements.[4]

9. In addition, some of the terms of this discussion lack legal existence. In the context of armed conflicts, foreign fighters are bound by the applicable provisions of international humanitarian law as long as they participate directly in hostilities. In the absence of either an internationally agreed legal definition of foreign fighters or a specific regime governing them, the Working Group has defined foreign fighters as individuals who leave their country of origin or habitual residence and become involved in violence as part of an insurgency or non-State armed group in an armed conflict. They are motivated by a range of factors, notably ideology, although the Working Group has found financial motivations to be a key factor as well.[5] In this regard, the Working Group deems foreign fighters as a mercenary-related activity.

10. PMSCs are private businesses that provide military and/or security services, irrespective of how they describe themselves. Military and security services include the provision of armed guards and the protection of persons and objects, such as convoys, buildings and other places; the maintenance and operation of weapons systems; prisoner detention; and advice to, or training of, local forces and security personnel.[6]

11. In terms of accountability, it is important to note that, during armed conflicts, mercenaries, foreign fighters and PMSCs are obliged, as are all members of State armed forces or non-State armed groups party to the conflict, to respect the applicable rules of international humanitarian law, in particular the minimum standards enshrined in article 3 common to the four Geneva Conventions of 1949, including the prohibition of murder, torture and the taking of hostages. Customary international humanitarian law requires all parties to a conflict to respect the principle of distinction and proportionality in their military operations and prohibits attacks whose primary purpose is to spread terror. Serious violations of humanitarian law, including acts of terrorism, may amount to war crimes, triggering individual criminal responsibility.

12. In non-international armed conflicts, non-State armed groups, including PMSCs and foreign fighters, do not enjoy combatant immunity and may be prosecuted under

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[2] See https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp.

[3] The International Committee of the Red Cross asserts that article 47 constitutes a rule of customary international law; see https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule108.

[4] United Nations, *Treaty Series*, vol. 1125, No. 17512; article 47 reads: 1. A mercenary shall not have the right to be a combatant or a prisoner of war. 2.A mercenary is any person who: (a) is specially recruited locally or abroad in order to fight in an armed conflict; (b) does, in fact, take a direct part in the hostilities; (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party; (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict; (e) is not a member of the armed forces of a Party to the conflict; and (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

[5] See A/70/330.

[6] See https://www.icrc.org/en/document/ihl-and-private-military-security-companies-faq.

domestic law for mere participation in hostilities. The Mercenary Convention furthermore requires State parties to facilitate the prosecution of violations at the national level.[7] If they are operating in situations of armed conflict, the staff of PMSCs must respect international humanitarian law and may be held criminally responsible for any violations they may commit, whether they are hired by States, international organizations or private entities.[8]

13. Both international human rights law and international humanitarian law apply in situations of armed conflict. Treaty mechanisms and international courts, including the International Court of Justice and several regional human rights courts, have deliberated on the interaction between these two bodies of law, noting that both share the common aims of protecting human life and dignity and that both are applicable in situations of emergency.[9]

14. As previously stated, both sets of norms apply to States as main actors of international relations. However, while international humanitarian law applies to all non-State actors, including mercenaries, foreign fighters and PMSCs, this is less true for international human rights law, which is governed by the general rules of international public law and is still rather State-centric. Nonetheless, it is increasingly considered that these non-State actors are also bound by international human rights obligations when they control territory or exercise State-like activities. International tribunals and national courts have found non-State actors criminally and civically accountable for war crimes.

15. This issue has been particularly raised with regard to PMSCs. As small private companies and corporations are becoming ubiquitous instruments of foreign policy, their behaviour and the impacts of their action pose serious risks to human rights. Moreover, the lack of clarity regarding their relationship with foreign States, local interest groups and neighbouring countries make external oversight and liability almost impossible. Consequently, the accountability of these actors for human rights violations before international human rights mechanisms that are based on State accountability only is currently not an option. Therefore, outside of armed conflict, their accountability depends entirely on State institutions that have different levels of acceptance of accountability for each of these actors across the globe.

III. Issues of focus for the Working Group

16. Since its establishment in 2005, the Working Group has carried out extensive research and conducted 22 official visits to various countries and the European Union institutions on issues relating to mercenaries, foreign fighters and PMSCs.[10] Many of these visits were to developing countries that had a history of armed conflict, violence or insurgency. Some visits, which did not have a context of armed conflict or insurgency, were undertaken to better understand the regulatory frameworks that governed these phenomena. Official visits also aimed to assess the human rights implications of these actors, in particular the right to self-determination. The transnational nature of these activities presents an additional layer of complexity to the regulation of these actors.

[7] See General Assembly resolution 44/34, annex, articles 6 and 9–12.

[8] See https://www.icrc.org/en/document/ihl-and-private-military-security-companies-faq.

[9] See United Nations and Office of the United Nations High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflict* (New York and Geneva, 2011).

[10] See reports on country visits to Afghanistan, Belgium, the Central African Republic, the Comoros, Côte d'Ivoire, Honduras, Iraq, Somalia, South Africa, Tunisia, Ukraine and the United States of America; accessible at: https://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/CountryVisits.aspx.

17. In addressing the aforementioned actors, the Working Group has often analysed the motivational factors that draw these individuals to armed conflicts or to engage in violence, with a particular focus on financial incentives. In the context of various country visits and its study on foreign fighters,[11] the Working Group found that there is no single profile of foreign fighters but that motivational factors are diverse and complex and often best understood in the historical, social, cultural, political and economic contexts in which they exist. Regarding financial incentives or gains, the Working Group found on its visits[12] that some foreign fighters received payments and privileges including free housing, access to swimming pools, occasional gifts or donations and might be supported in bringing their wives and children to live with them. It was also reported that some fighters received an allowance for daily living expenses in the amount of approximately 700 euros a month and that foreign fighters received a higher salary than local Syrian fighters.[13] Much of the information on financial incentives also highlights the larger issue of extreme poverty, whereby fighters are drawn to conflict abroad in order to earn a living or provide for themselves or their families.

18. The recruitment of these actors was also assessed and their human rights impacts were also extensively covered to highlight their dire consequences on human lives and the need to strengthen regulation and accountability measures. All the reports of the Working Group on mercenaries and foreign fighters have included information indicating that these non-State armed actors continue to pose serious threats to the national stability of States and the human rights of local populations.

19. The Working Group also found that the root causes of conflicts involving mercenaries and foreign fighters are often linked to a history of armed conflict or instability; authoritarian rule; poverty or a country's poor or stagnant economic situation; high unemployment; exploitation of natural resources, namely by foreign corporations; or widespread poverty and economic disparities. In addition, the weak and destabilized condition of State institutions has added fuel to conflicts and further attracted these actors to capitalize on the fragile conditions. The result can often be prolonged armed conflict in which serious human rights violations are inflicted on the civilian population.

20. With regard to the right to self-determination, the Working Group found that mercenaries, foreign fighters and PMSCs could significantly impede the right to self-determination, a right that belongs to "peoples" and not States. These actors influence domestic insurgencies in ways that may ultimately undermine the right of self-determination. This, in turn, may complicate mediation and negotiations to end a conflict. Especially in the case of foreign fighters, they often bring in new, radical and unlawful tactics that encourage greater violence towards the civilian population.[14]

21. From 2013 to 2016, the Working Group conducted a global study on national legislation regulating PMSCs, covering about 60 States from all the regions of the world. The study showed that States regulate PMSCs in an incoherent and inconsistent manner, resulting in accountability gaps and serious risks to human rights. The Working Group emphasized that PMSCs engage in activities that often include the use of force, sometimes within armed conflicts and in situations in which participation in hostilities may occur. There are also regulatory gaps in the acquisition of weapons by company personnel and divergent approaches to the use of force and firearms in the course of duty, within both the private military and the private security

[11] See A/70/330.
[12] See A/HRC/33/43/Add.1 and A/HRC/33/43/Add.2.
[13] See A/HRC/33/43/Add.2.
[14] See Jeni Mitchell, "The contradictory effects of ideology on jihadist war fighting: the Bosnian precedent", *Studies in Conflict & Terrorism*, vol. 31 (2008), No. 9.

industries. The absence of human-rights-based vetting mechanisms of PMSC personnel is also a common factor. There is thus a need to effectively regulate this industry, which has prompted the Working Group to call repeatedly for robust national regulation and an international legally binding instrument on PMSCs.

IV. Goal 16: specific targets in relation to the findings of the Working Group

22. In September 2015, the world's leaders agreed to the next generation of development-related goals. On 1 January 2016, the 17 ambitious global objectives known as the Sustainable Development Goals came into effect under resolution 70/1 of the General Assembly, "Transforming our world: the 2030 Agenda for Sustainable Development". As the preamble states, the Agenda is a plan of action that seeks to strengthen universal peace and recognizes certain fundamental goals necessary to attain this. The goals resonate with international human rights standards, are interlinked and cross-cutting and aim to leave no one behind.

23. In deciding on the goals and targets, Member States recognized that each country faces specific challenges to achieve sustainable development and underscored the special challenges faced by the most vulnerable countries, in particular African countries, least developed countries, landlocked developing countries and small island developing States. Countries in situations of conflict also require special attention.

24. Goal 16 was adopted as an acknowledgment by the international community that peace is fundamental to development. It also recognizes that conflict and instability are significant impediments for development. Low income fragile and conflict-affected countries often record lower levels of development. In this context, the Working Group, noting its extensive work on mercenaries, foreign fighters and PMSCs, decided to focus on this goal, which calls for the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all and building effective, accountable and inclusive institutions at all levels. Goal 16 is not only a valuable and important aspiration in its own right, it is also a significant "enabling goal" for the entire 2030 Agenda.[15] In many respects, Goal 16 is the most ambitious goal of the 2030 Agenda and presents unique practical challenges in its implementation and measurement. Of the 12 targets enumerated under Goal 16, the Working Group focused on 7 that were closely related to its findings over the years. In outlining these targets, the Working Group hopes to further underscore how the activities of non-State armed actors and responses by States that fail to comply with their international human rights obligations can seriously hinder progress towards the achievement of Goal 16 and the need for States, in particular, to address these activities effectively.

25. The Working Group has witnessed first-hand how non-State armed actors can destabilize entire countries using violence and committing human rights atrocities, often with impunity. Many of these experiences were observed in developing countries, often at the lowest end of the poverty scale. Poverty and inequality can be a driver of violent conflicts. Often these countries were crippled by long years of armed conflict and political instability. Many are situated in Africa, a continent which holds some of the largest and richest reserves of natural resources worldwide.

[15] See United Nations Development Programme, "UNDP support to the implementation of Sustainable Development Goal 16" (living document; last updated January 2016); accessible at: http://www.undp.org/content/undp/en/home/librarypage/sustainable-development-goals/undp-support-to-the-implementation-of-the-2030-agenda.html.

26. Yet the activities of armed actors, many of which are often foreign elements, have severely inhibited development and progress for these countries. In some situations, only a minority of the population enjoy the benefits of resources that could potentially provide for the country's whole population. The findings of the Working Group's reports over the years not only provide important insight into the need to have strong regulations, enforcement measures and strategies to address the activities of mercenaries, foreign fighters and mercenaries but they also highlight the dire situations in which sustainable development is severely hindered in various countries affected by these non-State actors.

27. The most common focus of the Working Group, inter alia, has been to promote the strengthening of accountability frameworks in relation to non-State armed groups that have committed human rights violations. In its various reports,[16] the Working Group identifies important issues that need to be addressed to achieve sustainable development. These include but are not limited to the need to have an early warning system to stem violence or crises, especially in various countries where these exist; promote strong State institutions with a focus on human rights and the rule of law; ensure strong accountability frameworks to counter impunity for human rights violations and provide effective remedies for victims; tackle root causes that lead to violent extremism; promote peacebuilding and a culture of tolerance and social cohesion; and ensure a participatory approach and inclusion at all levels of society in these endeavours.

28. The Working Group has also repeatedly called for strong multi-stakeholder partnerships — national, regional and international — to address transborder criminal activities related to mercenarism, foreign fighters and PMSCs. States must do more to assist one another in their various regions to cooperate and exchange information and skills in tackling these transnational activities. This collaboration is also important among key United Nations agencies with programmes on the ground related to the 2030 Agenda. More coordination and linkages with United Nations human rights entities and mechanisms, including the universal periodic review and the Special Procedures mechanisms, can go a long way towards achieving the Sustainable Development Goals.

29. In this context, the findings of the Working Group are outlined below in relation to specific targets of Goal 16 targets, followed by recommendations that may assist in furthering progress in the achievement of this important development goal.

A. Target 16.1: Significantly reduce all forms of violence and related death rates everywhere

30. The 2030 Agenda was adopted in a complex and challenging global development context, where new and protracted violent conflicts have remained a major development challenge, leading to over 60 million people being forcibly displaced worldwide at the end of 2014, the highest number since 1945.[17] Violence and violent deaths are not limited to conflict-affected regions; in fact, about 90 per cent of violent deaths in the world occur in non-conflict situations. Violent extremism is increasingly an issue of global, regional and national concern. There has been a rise

[16] See reports on country visits to Afghanistan, Belgium, Central African Republic, the Comoros, Côte d'Ivoire, Honduras, Iraq, Somalia, South Africa, Tunisia, Ukraine and the United States of America; accessible at: https://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/CountryVisits.aspx.

[17] See Office of the United Nations High Commissioner for Human Rights, *World at War: UNHCR Global Trends: Forced Displacement in 2014* (http://www.unhcr.org/556725e69.pdf), which puts the figure at 59.5 million forcibly displaced at the end of 2014.

in the number of powerful, non-State, armed groups possessing multiple agendas antithetical to peace and development and threatening the very existence of States.[18]

31. Varied forms of violence, a complex multidimensional set of drivers and an increasing number of non-State actors using new technologies and social media and with transnational connections are changing the nature of violent conflicts. As various global events have shown, fragility can affect any country or city, not just those traditionally considered fragile or conflict-affected. Locally confined tensions can easily become regionalized, complex and costly.[19] Higher levels of violence greatly affect economic development, which in turn suffers detrimental social impacts. Even in high-income countries, violence severely impacts progress, thus underscoring the universality of Goal 16. For nations affected by armed conflict there is also the conflict trap, whereby the impact of conflict further increases the risk factors associated with the conflict. Low socioeconomic development can support the conditions for violence but can also be a consequence of violence. The two are mutually affective, forming a vicious cycle of degeneration, resulting in a country having less of a possibility for conflict resolution.[20]

32. Since mercenaries, foreign fighters and PMSCs often operate in conflict situations or where violence is a likely occurrence, the necessity of conflict prevention is imperative to facilitate the promotion and achievement of the Sustainable Development Goals targets. Conflict prevention requires support for strong regulation and accountability mechanisms to bring perpetrators to justice. It also includes the development of credible and inclusive national and local capacities for the peaceful settlement of disputes; the strengthening of social cohesion as a deterrence to exclusion and violence, including violent extremism; and the facilitation of consensual approaches to critical development challenges through multi-stakeholder dialogue.[21]

33. In its various visits, the Working Group observed the way by which mercenaries, foreign fighters and PMSCs can significantly destabilize a country by violent means. This can render a State helpless and ineffective, particularly if the violent conflict is prolonged. This in turn has a severe adverse impact on the local populations, in particular marginalized or vulnerable groups, including women, children, persons with disabilities, the elderly, or indigenous communities, to name a few. The destabilizing impact of these actors have hindered the local population from effectively building a peaceful, developed and democratic society.[22]

34. The Working Group has documented the human rights violations instigated by mercenaries, foreign fighters and PMSCs,[23] including summary executions, enforced disappearances and abductions, arbitrary detention, sexual and gender-based violence and slavery, to name a few. The 2013 conflict in the Central African Republic, one of the worst humanitarian crises to date, resulted in thousands of deaths and about 380,000 persons were internally displaced, while 450,000 refugees fled to neighbouring countries.[24] This conflict has continued to the present day, with no sign of a peaceful resolution that could allow the country to rebuild and develop. As such, local populations continue to live in dire situations of poverty, insecurity and violence. Recurrent attacks continue at the hands of armed groups which have taken advantage of the ongoing fragile state of the country and have proliferated throughout

[18] See United Nations Development Programme, op. cit.

[19] See A/HRC/33/43/Add.2.

[20] See Institute of Economics and Peace, "SDG16 progress report: a comprehensive global audit of progress on SDG16 indicators: 2017", accessible at: http://visionofhumanity.org/app/uploads/2017/09/SDG16-Progress-Report-2017.pdf.

[21] Ibid.

[22] See A/HRC/36/47/Add.1.

[23] See A/HRC/24/45/Add.1, A/HRC/24/45/Add.2 and A/HRC/15/25/Add.2.

[24] See A/HRC/36/47/Add.1.

various territories. This is a prime example of how armed groups have gained power and control to the point of rendering a State helpless to provide the needed support and security for its people. The porous borders and movement of foreign fighters and mercenaries also contribute to the ongoing conflict.

35. Sexual and gender based violence have commonly been used as a weapon of warfare by mercenaries and foreign fighters.[25] The Working Group has noted that often women, men and children have all been victims of sexual violence. However, in many conflicts, the women far outnumber the men in sexual violence. In one conflict,[26] around 6,000 women were victims of sexual violence and slavery. During armed conflicts, mercenaries inflicted sexual violence including female genital mutilation, as a weapon of warfare. Gang rapes were often common and committed with impunity, often due to lack of sufficient evidence as victims could not attend court hearings or were fearful to come forward due to the stigma and shame associated with these crimes. Attacks against humanitarian workers have also been common among conflict-ridden countries where mercenaries and foreign fighters operate. This has further worsened the situation of local populations and civilians who heavily rely on such aid for survival.

36. In Comoros, where there was no armed conflict, the Working Group found that after 20 years of repeated coup d'états, most of which were violent and instigated by mercenaries, the country was seriously hindered from developing politically, economically and socially. PMSCs also work alongside mercenaries in creating insecurity as was the case in Honduras, Equatorial Guinea and Somalia. In these countries, PMSCs engaged in killings, forced evictions, torture, sexual violence and acts of threats against local populations including peasants. These armed actors prolonged conflicts and made them more intractable. They also complicate efforts to mediate and negotiate a peaceful resolution. In this context, they pose serious hindrances to the achievement of Goal 16.

37. To address the need to end violence, the Working Group has focused many of its recommendations on the need for effective peacebuilding strategies and initiatives, with the multilateral cooperation and support to do this given the fragile state of affected countries. It often called to strengthen the State institutions, particularly the security sector to ensure stronger protection for the local population, where conflict or violence were often recurrent. The need to also bring perpetrators to justice, including foreign and national armed actors is also a main concern and many of these issues are elaborated under target 16.6 which focuses on accountability. The Working Group has also advocated for the ratification of key instruments including the International Convention on Mercenaries, the Rome Statute of the International Criminal Court and other human rights international legal instruments.

B. Target 16.2: End abuse, exploitation, trafficking and all forms of violence against and torture of children

38. The Working Group found that human rights violations were commonly inflicted against children in situations where mercenaries, PMSCs and foreign fighters operate, particularly in situations involving an armed conflict. The human rights violations committed against children included abductions, torture, detention, sexual slavery and forcible recruitment as child soldiers. During the Central African Republic conflict, for example, some 6,000 to 10,000 children were connected to armed groups, whether forcibly recruited as child soldiers or used for sexual slavery and other purposes. In the same conflict, instances of sexual and gender-based violence against women and girls numbered about 27,000 compared to about 1,800

[25] Ibid.
[26] Ibid.

instances against men and boys. Children were also recruited to be porters, informants and cooks. Their vulnerability during times of crisis was often exploited.[27]

39. In Côte d'Ivoire, many young people, including children, were recruited as combatants during the armed conflicts in 2002 and 2011. Some of them were reported to have become mercenaries subsequently on the basis of their extensive training and involvement in warfare. In what appears to be a vicious cycle of youth violence and a legacy of the post-election crisis, the Working Group was informed of the current phenomenon of gangs of violent young people, including very young children, causing mayhem throughout the country. These gangs have reportedly committed killings, thefts and other illegal activities. Most of these young people live in abject poverty. Child soldiers who are drawn into mercenarism often come from impoverished settings.

40. During the Working Group's visit to Tunisia, it observed that non-State armed groups recruited foreign fighters under the age of 18. Boys as young as 17 were reportedly recruited to fight in the Syrian Arab Republic. Human rights law prohibits the recruitment of children under 18 by State armed forces or non-State armed groups. The Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities have reported that young boys and girls under the age of 18 are being targeted to travel abroad to participate in terrorist activities. ISIL is reportedly using significant numbers of minors as fighters (see S/2015/123, para. 40; S/2015/358, paras. 28 and 30; and A/72/865-S/2018/465).

41. In its thematic study on foreign fighters, the Working Group learned of allegations of human trafficking in camps in the Syrian Arab Republic run by foreign fighters, where people were sold or exchanged among parties to the conflict for propaganda or other reasons. Children were also reportedly sold to people in other countries and recruited to fight alongside mercenaries.

42. Since 2014, an estimated 17,000 children have been recruited in South Sudan, some 10,000 in the Central African Republic, some 20,000 in the Democratic Republic of the Congo and several thousand in Yemen. Over the past 10 years, more than 65,000 children have been released from armed forces and armed groups, while tens of thousands of boys and girls under the age of 18 continue to be used in conflicts around the world.[28]

43. Currently, the world holds the largest generation of young people in history, an estimated 1.8 billion worldwide who are between the ages of 10 and 24 years old. If these young people are not given ample opportunities to meaningfully participate in social, political and economic activities and decision-making, they are at risk of being marginalized and alienated. The Working Group has seen a disturbing trend of foreign fighter recruitment focused on these particular youths and children. As determined during one visit, the youngest child known to have travelled to engage in the conflict zone in the Syrian Arab Republic was 13 years old.[29] Many young people who were targeted were from minority ethnicity groups or lower social-economic groups and struggled with poverty, discrimination and marginalization. In Tunisia, the Working Group learned that organized crime syndicates were often forcibly recruiting young people by enticing them with false opportunities to study abroad. These young individuals ended up being trafficked into training camps in Libya with the intention of having them fight for Da'esh in the Syrian Arab Republic. Areas near the border of Tunisia with Libya were known sites of trafficking in people and illicit goods.

[27] Ibid.

[28] See https://www.unicef.org/media/media_94892.html.

[29] See A/HRC/33/43/Add.2.

44. The Working Group has increasingly highlighted the need to strengthen the protection of children and young people in situations where mercenaries, PMSCs and foreign fighters operate. Its most recent report to the Human Rights Council[30] covers the topic of the recruitment of children by non-State armed groups, including mercenaries, PMSCs and foreign fighters, and covers the factors surrounding this phenomenon in detail.

45. The Working Group has emphasized the importance of ensuring that responses to the recruitment and use of children in armed conflict focus on the rehabilitation and reintegration of children. States should address the root causes of child recruitment into armed conflicts and take preventive and not punitive measures. The reintegration of children is also important to ensure long-lasting peace, security and sustainable development in post-conflict societies.

46. The Working Group noted the need for States to have a stronger commitment to protecting children against trafficking, exploitation, torture and other abuses. In the context of armed conflict or violence, States are encouraged to endorse and implement international human rights standards, including the Convention on the Rights of the Child and the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, to further protect children against unlawful recruitment.

C. Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all

47. Having clear and precise criminal legislation and an effective criminal justice system is imperative to promoting the rule of law and ensuring equal access to justice for all. While this is an important factor, the Working Group has witnessed the lack of accountability in many of the countries visited, mainly owing to institutions being undermined through conflict, violence or instability. The fight against impunity, including for non-State actors, is part of sustainable development. It requires, however, the existence of effective justice mechanisms, formal or traditional, to deal with disputes, offences and human rights violations.

48. In its various visits, the Working Group noted the severe challenge to access to justice for victims in the lack of judicial infrastructure, lack of qualified members of the judiciary and of judicial independence and the existing threats of reprisals against members of the judiciary, victims and witnesses. Corruption and the lack of training of investigators were also serious problems, as well as the lack of appropriate, clear and precise legislation.[31]

49. This target is broader than ensuring an effective legal system. It also ensures that local populations that have been adversely impacted by armed conflict or violence have trust and confidence in the system that they have recourse to. The system itself needs to be easily accessible to vulnerable groups, including women and children. It needs to be able to address mass human rights abuses and provide the necessary protection. In order to do so, it should also ensure that complementary support measures are set up, as appropriate, including medical assistance, free legal assistance and psychosocial care.

50. The Working Group observed that the need to ensure robust protection for witnesses and victims who wished to participate in judicial proceedings against perpetrators of human rights violations was a critical issue. Mercenaries and foreign fighters often needed to be repatriated back to the country of origin and this required

[30] See A/HRC/39/49.

[31] See A/HRC/36/47/Add.1.

the effective cooperation of that State. It was a challenge to ensure that such individuals were not granted immunity upon their return.

51. The Working Group noted that Governments need to establish non-judicial transitional justice mechanisms in the form of consultations and awareness campaigns on the objectives and functions of such mechanisms. Documentation and records of human rights violations are necessary for record-keeping. This will assist efforts to secure and preserve documents related to human rights and international humanitarian law violations, which can be used for the prosecution of perpetrators and for mapping the way forward in policies relating to truth, justice and reparation.

52. Documenting human rights violations and collecting historical information are also imperative for ensuring that data and information is available for the investigation and prosecuting of perpetrators. In the Comoros, for example, the Working Group noted the absence of records and written documents on previous violations by mercenaries. The lack of judicial investigations and absence of comprehensive historical and political research made it a challenge to bring justice to victims. The Working Group is of the view that it is difficult for it at this stage to establish the facts with certainty and determine the degree of foreign countries' responsibility for mercenarism in Comoros. However, it recognized that the collective actions of foreign actors and local nationals were responsible for the continued destabilization of Comorian society and that they effectively impeded the right of the local people to self-determination. This highlights the need for the stronger civil society to observe, document and safeguard the violations occurring in their countries.

53. The 2030 Agenda depends heavily on available data for the measurement of progress and development. It is therefore important, as part of building strong institutions for justice and development, that the collection of data and systematic documentation of information be carried out concerning the local population, its human rights and development or lack of development.

54. It is also important to provide the necessary infrastructure and training to train public servants, civil society and non-government actors on human rights especially in remote and rural areas where poor communities are likely to be situated. Strong access to education and information is also important in building communities that understand and adhere to the rule of law. When affected by activities of mercenaries, PMSCs and foreign fighters, it is much easier to trace and obtain information if these systems are effectively in place. If the rule of law is clear and precise, supported by effective justice system, then there is a stronger likelihood of addressing the activities of these actors.

D. Target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen recovery and return of stolen assets and combat all forms of organized crime

55. Having geographically delimited borders is a foreign concept in many countries where foreign fighters and mercenaries operate. In addition, the transborder activities of PMSCs illustrate the reality that most of these actors operate within porous borders, which have allowed for the free movement of individuals as well as illicit weapons and arms that have perpetuated conflicts and violence in certain countries. The difficulty in having effective control over these frontiers were challenges for various States.

56. An example was seen in the visit to Côte d'Ivoire, where citizens of neighbouring countries such as Liberia have traditionally moved freely in and out of the country, in part because relatives live side by side on both sides of the border. Despite increased

attempts to strengthen border control and management, the authorities continue to face challenges in curbing cross-border criminal activities, including mercenarism.

57. In the Central African Republic, the fragile state of the country presented opportunities for criminal activities to flourish, which attracted foreign fighters to exploit the situation. Armed foreigners continued to enter the territory to conduct illegal operations, including trafficking of arms and weapons from countries and as far as Libya. This was a major concern and challenge to the peacebuilding and disarmament efforts being carried out by the government and its partners. The proliferation of armed groups and their potential to exert power and control over various territories in the country continued to attract mercenaries and foreign fighters to the country, seriously hindering national stability and efforts to move the country forward. The flow of armed actors and weapons could also destabilize a whole region and impact the development of more than one country.

58. During its visit to Afghanistan,[32] the Working Group commended the efforts made by the Government to adopt a comprehensive regulation concerning the licensing of PMSCs. This was also an attempt to control, at least partially, the flow of weapons, in coordination with the disarmament and demobilization programme that was already in place. The Working Group notes the importance of keeping a registry that documents the flow of illicit arms.

59. With regard to the illicit flow of finances, the Working Group notes that this is a major factor that fuels the activities of mercenaries, foreign fighters and even PMSCs. Illicit finances are key to perpetuating the activities of these actors and the collaboration between States, regions and even institutions, including the World Bank, is important to broaden the network of actors that could help to stem this activity. States who are also indirectly or directly financing the activities of mercenaries, foreign fighters and PMSCs to destabilize another country also need to be held responsible. The Working Group's studies on foreign fighters have also shown that financial flows often come in the form of what looks legitimate, such as the financing of a non-governmental organization, but with the funds intended to support radicalization or violent extremism movements that enable foreign fighter movements into countries such as Iraq and the Syrian Arab Republic. The Working Group stresses the importance of addressing these activities, not only to cease the financing of armed actors but also the myriad of transborder organized criminal activities that could undermine sustainable development.

E. Target 16.6: Develop effective, accountable and transparent institutions at all levels

60. Peacebuilding efforts are crucial to stabilize countries that have been ravaged by conflict. Even in non-armed conflict situations where violence and insecurity are rampant owing to the proliferation of armed actors, the existence of effective, accountable and transparent institutions can facilitate development and progress. Throughout the Working Group's visits to countries where mercenaries, PMSCs and foreign fighters have committed criminal offences and human rights violations, the most common challenge was the pervasive impunity that accompanied these activities. Even with the existing legal framework covering these actors, there were rarely prosecutions or convictions related to the violations perpetrated by mercenaries, PMSCs and foreign fighters.

61. Weak justice systems embedded within weak State institutions meant that the impunity of perpetrators persisted and the public had little or no confidence in these

[32] See A/HRC/15/25/Add.2.

mechanisms. In some visits,[33] the Working Group was informed that mercenaries had been recruited by both sides to the conflicts and had been responsible for grave violations, including mass killing, rape, torture, enforced disappearance and abduction. However, there were none or very few convictions for these violations.

62. The Working Group has also found that mercenaries and foreign fighters often contribute to the adoption of more radical methods of warfare, encouraging the targeting of civilians or fostering sectarian violence. With limited connections to the local population, foreign fighters may be more brutal, as has been seen repeatedly in the Syrian Arab Republic and Iraq. The acts of foreign fighters may amount to gross human rights violations,[34] war crimes and crimes against humanity or genocide. Ensuring the accountability of foreign fighters involved in such abuses and crimes is critical. Whenever possible, the States of nationality or permanent residency should effectively investigate and prosecute foreign fighters involved in such acts.[35]

63. All actors who participate directly in hostilities in disregard of relevant provisions of international humanitarian law are accountable for their actions under this set of norms and international criminal law, regardless of their status. However, to the extent that mercenaries and foreign fighters use force outside the control of the sovereign State, in particular outside the relatively robust mechanisms for human rights protection in national military forces, they may be more likely both to violate human rights and avoid accountability for doing so.

64. While both mercenaries and foreign fighters may commit and have indeed committed human rights violations, in the case of mercenaries and private military contractors employers can be put under pressure to prevent such behaviour. Market pressures against human rights violations have been repeatedly applied as useful non-legal tools for controlling the private use of force.[36] In the case of PMSCs, international mechanisms such as the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies process and the International Code of Conduct for Private Security Service Providers' Association seek to apply additional measures that will promote lawful behaviour.

65. Unfortunately, market pressures and additional legal mechanisms are not as effective in regulating the behaviour of foreign fighters. This is especially the case with respect to Da'esh, a group that has used gross violations of human rights as a propaganda tool, releasing videos of the most horrific violence. The market and reputational costs of human rights abuses do not apply in such cases. In its study on foreign fighters, the Working Group concluded that countries of nationality of foreign fighters should effectively investigate and prosecute those responsible for such violations, whenever possible.[37] There have been few reported investigations into such acts committed by foreign fighters, with the large majority of reported investigations and prosecutions focusing on domestic terrorism offences. More information is needed to analyse the reasons for this lack of investigations, such as the difficulty of obtaining evidence, as well as the possible impact of Security Council resolution 2178 (2014) with its focus on terrorist acts.

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[33] See A/HRC/27/50/Add.1, A/HRC/43/Add.3 and A/HRC/36/47/Add.1.

[34] See http://uniraq.org/images/humanrights/HRO_PoCReport%2011Sept-10Dec_FINAL_ENG_16Feb2015.pdf.

[35] See A/70/330, para. 46.

[36] See Deborah Avant, "The emerging market for private military services and problems of regulation", in *From Mercenaries to Market: The Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford University Press, 2007), chap. 10.

[37] See A/HRC/28/28, para. 44.

66. The Working Group, in its global study of national regulations of PMSCs, observes that regulatory gaps in legislation, including as regards penal and civil sanctions for violations committed by PMSCs, and the lack of monitoring bodies and accountability mechanisms entail a threat to several human rights, including the right of victims to an effective remedy. The study reiterates its call for an international legally binding instrument to ensure consistent regulation worldwide and adequate protection of the human rights of all persons affected by the activities of PMSCs.

67. In a series of recommendations to promote accountability, the Working Group notes the importance of ensuring that anyone accused of mercenary-related activity be tried by an independent court or tribunal and that investigation and prosecution and judicial proceedings need to be carried out against persons responsible for serious violations. Gender-based violence, which has often been used as a tool of warfare, needs to be tackled in a multisectoral approach involving civil society and community actors to ensure that victims step forward and are given the appropriate support. Having a victim-centred approach to development and to transitional justices can assist in prevention measures. Ratifying the Rome Statute is also one of the steps that can help in assuring greater accountability. Complaints mechanisms need to be easily accessible to all parts of society, including the most marginalized, vulnerable and neglected members of societies. In addition, the establishment of popular proceedings such as truth and reconciliations mechanism can bring just satisfaction to the victims and provide sustainable peace.

68. The Working Group found that, whether a situation concerned mercenaries, PMSCs or foreign fighters, in peacetime or in conflict, the need for effective and just accountability mechanisms is fundamental to peacebuilding and sustainable development. Without accountability, there will be very little progress on advancing the 2030 Agenda. In fact, the Working Group believes that States could effectively reduce their vulnerability to attacks by mercenaries, PMSCs and foreign fighters by establishing strong accountability mechanisms that ensure effective remedies to victims.

F. Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels

69. In most countries where mercenaries, PMSCs or foreign fighter activities have resulted in serious violations, there is a stark absence of inclusive and participatory elements in society. In such contexts, the Working Group has found that individuals are more prone to be recruited to fight with groups such as Da'esh. Radicalization and violent extremist propaganda can specifically target the excluded and marginalized and be successful in this process because an individual does not feel a strong kinship or sense of belonging in the community.[38] Furthermore, if these individuals are in situations of poverty, they are more prone to be enticed by financial gains to join mercenary and foreign fighter activities and PMSC operations that may be operating in an illegal environment.

70. In several of its reports, the Working Group highlighted the particular victimization of women and children in situations of conflict and violence. It noted the need to provide support to national efforts to tackle sexual and gender-based violence by, for example, increasing women's political participation and leadership in sectors such as justice and security and economic recovery, and by providing services for survivors and tackling impunity in these cases.

[38] See A/HRC/33/43/Add.1 and A/HRC/33/43/Add.2.

71. The Working Group finds it crucial to support the establishment of measures to ensure response, inclusive, participatory and representative decision-making at all levels. This requires processes that will improve citizen participation, political development and civic engagement,[39] all of which are part of the human-rights-based approach to development. Promoting resilient State-society relations by addressing both sides of the relationship in both crisis and non-crisis settings will also effectively facilitate the 2030 Agenda. This could include supporting constitutional reform processes and providing advice to national partners on substantive constitutional issues, such as power-sharing, human rights, gender equality and public accountability. Strengthening the role of civil society and protecting spaces for people's participation in political and public life, with a special focus on groups experiencing significant marginalization, are also imperative. The advancement of women's equal participation and decision-making in political processes and institutions, with a special focus on supporting legal, policy and programmatic frameworks and approaches,[40] must also accompany these efforts.

72. The Working Group also commends efforts to develop and strengthen engagement or collaboration with international human rights machinery, such as the universal periodic review, the treaty bodies and the Special Procedures of the Human Rights Council. This will help strengthen national human rights institutions, ombudsperson institutions, equality and gender bodies and other independent oversight institutions in developing their capacity and enhancing their role as the cornerstone of national human rights systems, which enables better understanding of the situation of excluded and marginalized groups and individuals in a country.

G. Target 16.a: Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime

73. As elaborated in the above-mentioned targets, strong State institutions, robust accountability mechanisms and strong engagement and participation of all sectors of society are conducive to the positive achievement of the Sustainable Development Goals. However, strong cooperation — national, regional and international — is fundamental for equipping countries to prevent violence, terrorism and crime. This is particularly so where the transborder aspect of these activities requires strong cooperation to successfully combat such threats.

74. In the spirit of the 2030 Agenda, the Working Group emphasizes the importance of this multisectoral cooperation. States need to promote and strengthen democracy, economic, social and cultural rights and good governance in order to effect development. They also need strong human rights institutions, both nationally and internationally, that work together to promote and strengthen the capacity to achieve peace and development.

75. The Working Group notes that most of the States in which it has witnessed the most debilitating impact of mercenaries, foreign fighters or PMSCs were those in dire need of assistance, both financially and through technical assistance from the international community. Regional collaboration was also crucial for bringing perpetrators to justice and combatting impunity. The Working Group often called on States in which conflict by mercenaries, foreign fighters or PMSCs was present to work together to mutually exchange information, skills and services that could assist

[39] See United Nations Development Programme, op. cit.
[40] Ibid.

in prosecuting perpetrators. In this framework, investigations could be strengthened and the exchange of evidence and critical information could strengthen protection for local populations and promote peace within the region. This approach could serve as an important early warning system as well.

76. Support given to States also needs to extend to civil society and to civic, religious and political leadership in order to develop and apply national "infrastructures for peace" or credible and inclusive policies, institutions and mechanisms for the promotion of dialogue and the building of consensus around contested issues to help prevent or de-escalate conflict. The Working Group reiterates that capacity-building that can lead to strong national institutions requires the active participation of women and youth, as well as marginalized groups, in national and local peace initiatives. This includes efforts to prevent violence, manage conflicts constructively and develop effective responses during political transitions and periods of rapid change.[41] These initiatives can also assist in addressing the global challenge of violent extremism by sharing best practices among countries and entities and continuing to promote inclusive and participatory development and a culture of tolerance.

77. The Working Group reiterates that the fight against mercenarism and its related activities urgently requires cooperation that goes beyond the borders of concerned States. It requires strong political will and cooperation among the global community, much as is the case for implementation of the 2030 Agenda and the call to "leave no one behind". While a State can do its best to eliminate the scourges of these activities in its own territory, the omission of the support of neighbouring States and the global community can mean that its best efforts may still be futile in achieving peace and development for its people.

V. Conclusions and recommendations

78. **The Working Group's mandate has given it unique insight into the impact of non-State armed actors such as mercenaries, foreign fighters and PMSCs on human rights, in particular the right of peoples to self-determination. Since human rights are crucial and conducive to achieving sustainable development, the findings of the Working Group could add value to understanding how these activities adversely impact and significantly hinder sustainable development. The achievement of Goal 16 could have a positive impact on the implementation of the 2030 Agenda because it is seen as an enabling goal for the accomplishment of all the other Sustainable Development Goals. The Working Group hopes that, by reviewing some of its findings in the framework of Goal 16, the present report and recommendations will assist in promoting actions and initiatives that could pave the way for the realization of Goal 16 and thereby all the other Sustainable Development Goals. The recommendations of the Working Group, many of which are based on its own findings in its work and research over the years in countries that have been adversely affected or challenged by mercenaries, foreign fighters or PMSC operations, are set out below.**

A. General recommendations

79. **The following are the general recommendations of the Working Group:**

(a) **Promote and strengthen democracy and good governance, economic, social and cultural rights and development;**

[41] Ibid.

(b) Develop and strengthen engagement or collaboration with international human rights machinery, such as the universal periodic review, the treaty bodies and the Special Procedures of the Human Rights Council,

(c) Ratify or accede to the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries and introduce national-level legislation against mercenarism by adopting specific provisions in national criminal codes or separate legislation on mercenaries;

(d) Ensure that anyone accused of involvement in a mercenary-related activity is held accountable by a competent, independent and impartial court or tribunal, in compliance with international human rights standards;

(e) Address the problem of impunity in order to support genuine reconciliation and peace efforts by carrying out investigations, prosecutions and judicial proceedings against persons responsible for serious violations or abuses of international human rights law or international humanitarian law, including torture or other cruel, inhumane degrading treatment or punishment, summary or arbitrary executions or enforced or involuntary disappearances;

(f) Support national efforts to tackle sexual and gender-based violence, for example by increasing women's political participation and leadership in sectors such as justice and security and economic recovery, by providing services for survivors, tackling impunity in cases of sexual and gender-based violence and engaging people at the community level in awareness-raising and prevention activities;

(g) Develop and strengthen the capacity of justice and human rights institutions and enhance service delivery and protection, especially of vulnerable groups, in order to nurture public trust and confidence;

(h) Strengthen the protection of members of the judiciary and the justice system and of witnesses and victims in order to effectively combat impunity;

(i) Ensure adequate remedies, including the provision of compensation for victims and their families, and set up or strengthen remedy and reparation mechanisms;

(j) Increase efforts and strengthen initiatives for non-judicial transitional justice mechanisms through consultations and awareness campaigns regarding the objectives and functions of such mechanisms;

(k) Increase efforts to secure and preserve documents and records related to human rights and humanitarian law violations, which can be used to prosecute perpetrators and map the way forward for policies relating to truth, justice and reparations;

(l) Emphasize a victim-centred approach to the development of transitional justice processes, including with regard to the national prosecution of crimes falling under the Rome Statute, inclusive truth-seeking processes and long-term development measures for prevention and non-recurrence;

(m) Establish independent, public and easily accessible complaints mechanisms to allow local populations to report human rights violations involving mercenaries and mercenary-related activities;

(n) Ensure free political participation, improve citizen participation and ensure accountability through electoral processes, parliamentary and political development, constitutional processes and civic engagement, including women's political participation;

(o) **Support parliaments in the better discharge of their constitutional law-making, oversight and representation mandates, as well as in increasing the capacities of civil society actors to act as intermediaries in political advocacy, and support the advancement of women's equal participation and decision-making in political processes and institutions, with a special focus on supporting legal, policy and programmatic frameworks and approaches;**

(p) **Strengthen the capacities of civil society actors and expand and protect spaces for people's participation in political and public life, with a special focus on groups experiencing significant marginalization, including persons with disabilities and indigenous peoples;**

(q) **Ensure responses to the phenomenon of the recruitment and use of children in armed conflict that focus on the separation, rehabilitation and reintegration of children. States should address root causes that foster child recruitment into armed conflicts and should take preventive, not punitive, measures aimed at protecting children from being recruited into armed conflict;**

(r) **Reintegrate children who have been associated with armed groups, which is crucial to ensure long-lasting peace, security and sustainable development in post-conflict societies. Failure to reintegrate this group of children socially and economically into society may increase the risk of re-recruitment of these individuals and cause substantial economic development issues in the community and society at large;**

(s) **Restore core government functions in order to deliver equitable public services and inclusive development at the central and local levels;**

(t) **Develop and strengthen partnership between Governments and civil society actors;**

(u) **Address the consequences of corruption and ensure that public resources go to the most vulnerable by helping countries to develop pro-poor policies, supporting participatory planning, monitoring and decision-making and mainstreaming anti-corruption measures throughout the planning and budgeting cycles;**

(v) **Strengthen peacebuilding and development trajectories, which strengthens the effectiveness of justice assistance provided by the United Nations system;**

(w) **Strengthen cooperation among countries in order to facilitate investigations and prosecution, including through legal assistance and extradition agreements, thereby expediting the exchange of evidence and information in order to obtain the information necessary to prosecute and secure convictions;**

(x) **Strengthen development cooperation among territories to enhance local capacity for development and develop and strengthen core government functions, in particular in post-conflict and fragile contexts on a priority basis, in order to meet long-term State-building, institutional capacity and national development objectives. This will help Governments in fragile settings to gain control of the recovery process, deliver essential services and support peacebuilding processes;**

(y) **Adopt regulations to control arms flows and combat all forms of organized crimes in order to curb the proliferation of small arms and light weapons.**

B. Recommendations related to private military and security companies

80. **The following are the recommendations of the Working Group related to PMSCs:**

(a) Enact domestic regulatory legislation requiring the registration and licensing of PMSCs, oversight and accountability, including provisions for effective monitoring and reporting of human rights violations and remedies for victims, in order to ensure that the services imported by these private companies neither impede the enjoyment of human rights nor violate human rights in recipient countries;

(b) Ensure consistent regulation worldwide and adequate protection of the human rights of all persons affected by the activities of private military and security companies by adopting an international legally binding instrument, which would provide a standard regulatory framework and a single dedicated body to address issues related to the activities of private military and security companies, including accountability and the availability of effective remedies for victims;

(c) Ensure a vigorous vetting process for awarding contracts to private military and security companies that involves assessment of past performance, including assessment of steps taken to provide victims with remedies and compensation for past abuse and the banning, suspension or conviction of employees involved in human rights abuses;

(d) Ensure that the registration and licensing of PMSCs and individuals working for them includes the definition of minimum requirements for obligatory transparency and accountability of companies, background screening and vetting of PMSC personnel;

(e) Ensure adequate training of PMSC personnel on international human rights and international humanitarian law, as well as rules of engagement consistent with applicable law and international standards, and establish effective complaint and monitoring systems, including parliamentary oversight. Such regulatory systems should include thresholds of permissible activities and States should impose a specific ban prohibiting PMSCs from intervening in internal or international armed conflicts or actions aimed at destabilizing constitutional regimes;

(f) Consider and implement regulations on the rules and methods of acquiring, exporting, importing, possessing and using weapons and ensure that private military and security company personnel worldwide are also held accountable for the illegal acquisition of weapons and illicit trafficking in arms;

(g) Continue and strengthen efforts to ensure that priority is given to capacity-building activities, including training for national police forces on human rights standards, international humanitarian law and United Nations standards on the use of force, in order to ensure that all citizens enjoy security;

(h) Consider membership in the Montreux Document process and the International Code of Conduct for Private Security Service Providers' Association in order to promote good practices in the contracting of PMSCs.